

REMARKS

Applicant has amended the first paragraph of the Specification to indicate the current status of the parent application to the present application, Serial No. 09/152,564.

Applicant has amended claims 1 and 34, the only two independent claims from the pending claims, to further clarify the invention and to further clarify the distinction between the claimed invention and Randelman (U.S. Patent No. 5,072,380). By this distinction, neither Randelman alone nor Randelman in combination with Kaehler (U.S. Patent No. 5,798,931) teach or suggest each of the elements and/or limitation in the claimed invention as is required by MPEP § 2143.03.

Applicant has amended claims 1 and 34 to clarify the nature of the "transaction guideline or limitation" phrase. The "transaction guideline or limitation" is a limitation "indicating whether the customer can purchase an item or service presented for purchase" as is now provided explicitly in the claims. Support for this interpretation can be found in the Specification of the present invention on page 50, lines 22-26, where it states that:

52

Attempts to circumvent the guidelines or limitations will preferably result in a message to the customer or operator that the item or service presented for purchase is not available to that particular customer when the transaction is associated with the customer transponder. These guidelines and limitations may affect both fueling and non-fueling transactions. (emphasis added)

Using the broadest reasonable interpretation of the claims, as is required under MPEP § 2111, it is clear that the "transaction guideline or limitation" involves a limitation indicating whether the customer can purchase an item or service presented for purchase – not validation or checking of credit or billing information used to pay for such purchase. Randelman discloses validating or checking of credit or billing information stored on a transponder at column 4, lines 40-55 as is referenced in the Office Action mailed on March 24, 2004 on page 4. However, validation or checking of credit or billing information regarding a purchase is not a limitation on whether the customer can purchase an item or service presented for purchase, which is a "transaction guideline or limitation" as provided explicitly in the claimed invention.

Further, Applicant has included new dependent claims 37 and 38, which depend from claims 1 and 34, respectively, to add the further limitation that account information is obtained from the remote communication unit to use to authorize the transaction. Therefore, account information is not a transaction guideline or limitation. Support for claims 37 and 38 can be found in the Specification at page 18, lines 6-31 for example.

Randelman, Column 5, Lines 62-65

The Patent Office also points to column 5, lines 62-65 of Randelman to support the position that the remote communications unit provides data needed for discounts and authorized purchases or products and that it would be obvious to one of ordinary skill in the art to "limit a transaction to a purchase amount and control a transaction by preventing purchase of select product." (Office Action mailed on March 24, 2004, p. 5). However, if the Patent Office is going to state that such information for discounts or authorized purchases is a "transaction guidelines or limitation," then such information must control whether or not the "control system will not further carryout the transaction if the transaction does not conform to the transaction guideline or limitation" as provided in all of the claims (see last section of claims 1 and 34).

As can be seen from Figure 3 of Randelman and as is described at column 4, lines 21-23, it is at block 28 that the services are administered. The system at a later time in block 40 in Figure 3 and as is described at column 5, line 33 through column 7, line 20 records accounting and other information, such as discount or authorized purchases, to a customer file. Note that Figure 4, described in column 5, line 33 through column 7, line 20, is executed once the system reaches block 40 in Figure 3 after the services are administered in block 28, and thus cannot serve as a limitation on the services rendered.

This position on Randelman by Applicant is further supported by the statement in Randelman at column 4, lines 51-55 that "[i]f the query (38) is "YES" then the vehicle is considered authorized, the transaction valid, and accounting or other business or statistical data, which may include customer preferences and/or services rendered, are logged (40)." Block 40 in only performed after the transaction is "valid". Block 40 is a logging function that is not related to whether the transaction is carried out or not, as is required in the claims of the present invention, and thus Randelman does not teach or suggest the claimed limitation that information

in the accounting record for the customer relating to "discounts, and authorized products or purchases" can limit or control the transaction in the system in Randelman.

Respectfully submitted,

WITHROW & TERRANOVA, PLLC

By:



Steven N. Terranova
Registration No. 43,185
P.O. Box 1287
Cary, NC 27512
Telephone: (919) 654-4520

Date: May 20, 2004

Attorney Docket: 2400-171A

CERTIFICATE OF TRANSMISSION	
I HEREBY CERTIFY THAT THIS DOCUMENT IS BEING TRANSMITTED VIA FACSIMILE ON THE DATE INDICATED BELOW TO:	
Examiner: <u>Bangachon, William L.</u> Art Unit: <u>2635</u> Fax: 703-872-9306	
<u>Jon Garrison</u>	_____ Name of Sender
<u>Jon Garrison</u>	_____ Signature
<u>5/20/04</u>	_____ Date of Transmission